

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

FLORENCIO HERNANDEZ

§

VS.

§

CIVIL ACTION NO. 1:09-CV-55

STATE OF TEXAS, ET AL.

§

MEMORANDUM OPINION AND ORDER

Plaintiff Florencio Hernandez, an inmate currently confined at the Estelle Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff alleges his constitutional rights were violated while he was assigned to the Stiles Unit. Plaintiff also alleges that his constitutional rights were violated by additional defendants after he was transferred to the Estelle Unit.

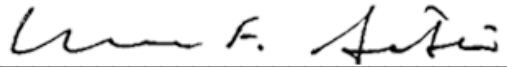
Analysis

When, as in this case, jurisdiction is not founded solely on diversity of citizenship, 28 U.S.C. § 1391 provides that venue is proper only in the judicial district where the defendants reside or in which the claim arose. However, under 28 U.S.C. § 1404(a), for the convenience of parties and witnesses and in the interest of justice, a district court may transfer any civil action to any other district where it could have been brought. Such a transfer may be done *sua sponte* and is reviewable only for an abuse of discretion. *Mills v. Beech Aircraft Corp.*, 886 F.2d 758, 761 (5th Cir. 1989).

The court has considered the circumstances and has determined that justice would best be served if the claims concerning events that took place at the Estelle Unit were severed and transferred to the district in which the claims arose. Therefore, it is the opinion of the undersigned that the claims against defendants Caleb C. Bennett, Kimberly A. Jackson, Davis L. Washington, Jason L. Wilcox, and Dr. Seals should be severed and transferred to the Houston Division of the United States District Court for the Southern District of Texas. This court will retain all remaining claims and defendants. It is accordingly

ORDERED that the claims brought against Caleb C. Bennett, Kimberly A. Jackson, Davis L. Washington, Jason L. Wilcox, and Dr. Seals are **SEVERED** from this action and **TRANSFERRED** to the Houston Division of the United States District Court for the Southern District of Texas.

SIGNED this 24 day of August, 2009.

A handwritten signature in black ink, appearing to read "Keith F. Giblin", written over a horizontal line.

KEITH F. GIBLIN
UNITED STATES MAGISTRATE JUDGE